SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF YOLO
APPELLATE DEPARTMENT

JAMES E. HORTON,	)	Superior Court No.
	)	15-6705
Petitioner,	)	
	)	
vs.	)	
	)	
THE SUPERIOR COURT OF THE STATE	)	
OF CALIFORNIA, COUNTY OF YOLO,	)	
	)	
	)	
Respondent;	)	
_____	)	
	)	
The People of the State of California,	)	
Real Party in Interest.	)	
_____	)	

PETITION FOR WRIT OF MANDATE AND REQUEST FOR STAY OF PROCEEDINGS PRESENTLY SET FOR _04212016_ AND EXHIBITS IN SUPPORT THEREOF WITH MEMORANDUM OF POINTS AND AUTHORITIES

After Denial of MOTION TO DISMISS BECAUSE OF DENIAL OF RIGHT TO SPEEDY TRIAL REGARDING CHARGE OF VIOLATION OF CA PC148(A)(1)
By the Honorable Judge Steven L. Mock of the Superior Court County of Yolo County

James E. Horton, In Propria Persona
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Petitioner Self-Representing

TO PRESIDING JUDGE OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF YOLO
APPELLATE DEPARTMENT:

TO PRESIDING JUDGE OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF YOLO, APPELLATE DEPARTMENT:

Petitioner, James E. Horton, petitions this Court for a writ of mandate and stay of proceedings directed to respondent Court, and by this verified petition represents that:

1. Petitioner, James E. Horton, is Defendant in case number 15-6705, wherein he was arraigned on 12012016 alleging a violation of PC § 415(1) and which is now pending in respondent Court, The Superior Court of the State of California, Yolo County. The People of the State of California, the Plaintiff in that action, are named in this petition as Real Party in Interest.

2. Respondent, the Superior Court of Yolo County, is now and at all times mentioned in this petition has been exercising judicial functions in connection with the action described in Paragraph 1.

3. All the proceedings about which this petition is concerned have occurred within the territorial jurisdictional of respondent Court and of the Court of Appeal of the State of California, Third Appellate District.

4. No other petition for writ of mandate has been made by or on behalf of this petitioner relating to this matter.

5. Petitioner seeks extraordinary relief from this Court in the first instance because in addition to the Allegations set out above, the following circumstances make it proper and necessary that a writ issue from this Court: 1. the matters involved are of public and general interest to the People of the State of California having bearing upon very weighty issues with respect to fundamental Constitutional Rights and require speedy resolution; 2. they present questions of law not previously decided in the state; and, 3. there is an urgent need for uniformity of decision within the state.6. In Petitioner's COMMON LAW MOTION TO DISMISS BECAUSE OF DENIAL OF RIGHT TO SPEEDY TRIAL, DUE PROCESS AND FAIR TRIAL, which he filed with Respondent Court on 02172016, and Petitioner's MOTION TO DISMISS BECAUSE OF RIGHT TO SPEEDY TRIAL, which he filed with the Respondent Court on 02192016, Petitioner objected to respondent Court's jurisdiction to proceed with Prosecution on the Defendant's fundamental right to a Speedy Trial, Due Process and Fair Trial have clearly been prejudiced by procedural inefficiencies so cumulative, they betray extreme Vindictive, Discriminatory, Retaliatory and Malicious Prosecution – Prosecutorial Harassment while

Defendant is in a conflict with Agents of the State. On 03232016, The Court prejudicially denied Petitioner's both motions aforesaid in open Court.

7. Allegation When Petition Challenges Nonappealable Order

The order at issue in this proceeding is a nonappealable order, issued on 03232016. This Petition is filed within a reasonable time because the reporter's transcript of the hearing in which the challenged order was made was not available until 04062016 and petitioner has referred extensively to the reporter's transcript in this petition while the legal issues are complex. Furthermore, the real party in interest has not been prejudiced by delay.

8. Petitioner has no right to appeal from respondent's decision of 03232016 and does not have a plain, speedy, or adequate remedy at law other than the extraordinary relief sought in this petition.

9. As supported in attached Memorandum, Petitioner will be irreparably injured in that he will be effectively denied fundamental VIth Amendment right to Fair Trial resulting from the prejudicial denial of his right to a Speedy Trial and Due Process if respondent Court is not compelled to perform its legal duty and issue its order of mandate to dismiss charges because of denial of Petitioner's fundamental rights to Speedy Trial and Due Process thereby prohibiting it from taking any further action in the above-described matter.

This Court (Appellate Department) should consider this case because of the grave nature of the issues presented, because of its significant legal impact, and in order to review questions at law that are of weighty significance to the bench and bar so that general guidelines can be laid down for future cases involving similar issues -- such as self-representation, prosecutorial harassment and malicious, Abuse of Legal Process.

WHEREFORE, Petitioner prays that: 1. This Court immediately stay all proceedings in the case at issue, case number 15-6705, until further order of this Appellate Department of this Court; 2. This Court issue a peremptory writ of mandate in the first instance commanding respondent Court to issue its order of mandate to dismiss charges because of denial of Petitioner's fundamental rights to Speedy Trial and Due Process, and, 3. This Court grant Petitioner such other and further relief as may be appropriate and just.

Date: _____

Respectfully submitted,

James E. Horton, In Persona Propria

_____

VERIFICATION

State of California, County of Yolo:

I, the undersigned, do hereby attest:

I am the Petitioner self-representing in this action. All facts alleged in the above petition, not otherwise supported by citations to the record, exhibits or other documents, are true of my own personal knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

Respectfully submitted,

James E. Horton, In Persona Propria

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MEMORANDUM PF POINTS AND AUTHORITIES

JUDGE PREJUDICIALLY ERRED BY MALICIOUS IGNORANCE OF PETITIONER'S MERITORIOUS ARGUMENT

On 11042015, Judge Maguire based his denial of Petitioner's motion at issue upon the reasoning that: cause of delay was simply the "result of the time necessary for (numerous) motions to be heard," hence, Petitioner was faulted for only filing pretrial motions timely and with merit (*Transcript of Oral Aral Argument* at 34:line 1, *People v. James Horton,* (2013)(13-0003628)(November 04, 2015); Augmented Transcript at 19:line 10, *Supra).*

During same hearing, Petitioner orally supported, presenting facts, accounting for approximately over 10 months bad-faith delay accrued beyond statutory requirements defined pursuant to PC § 1382 prima facies, and over a period of two years (*Transcript of Oral Aral Argument* at 26:line 6-33:line 7, *People v. James Horton,* (2013)(13-0003628)(November 04, 2015); Augmented Transcript at 15:line 19 – 18:line 28, *Supra).* "Defendant's right to speedy trial cannot be stifled by procrastination or neglect by public officials" (*Jackson v Superior Court* (1991) 230 Cal. App.3d). Also, he orally supported that all his motions were timely and with merit addressing issues as rightful defense.

In lieu of aforesaid, the Judge grossly abused discretion dismissing with total ignorance Petitioner's oral argument – thusly, the court maliciously prejudiced Petitioner's fundamental right to Due Process respective to his pretrial motion practice.

JUDGE PREJUDICIALLY ERRED BY PRIMARILY BASING HIS DENIAL UPON FALSIFICATION OF THE FACTS

As verbalized during proceedings upon motion at issue on 11042015, respondent judge based denial primarily upon alleged assertion that Petitioner previously signed a general waiver to his Rights to Speedy Trial pursuant to PC section 1382 during pendency in this case. (*Transcript of Oral Aral Argument* at 33:line 16 – 33:line 18, *People v. James Horton,* (2013)(13-0003628)(November 04, 2015); Augmented Transcript at 19:line 5, *Supra).*

This was blatant untruth falsifying the facts. In fact, Petitioner never did sign waiver as mentioned briefly in text of PC section 1382. Furthermore, he did immediately address said issue objecting thusly; evading the issue, the judge closed hearing without a response. (*Transcript of Oral Aral Argument* at 39:line 2, *People v. James Horton,* (2013)(13-0003628)(November 04, 2015); Augmented Transcript at 22:line 1, *Supra).*

Therefore, respondent court grossly abused discretion maliciously as prosecutorial and judicial misconduct.

DEFENDANT IS PREJUDICED BY PROLONGED RESTRAINT OF LIBERTY TO AN AREA

In conclusion, proceeding on this action would not serve justice, but only prejudice the Defendant in that the delays are causing undue disruption to his life without justifiable cause. At time of arrest, defendant did not have outstanding warrants, nor a criminal record. Charge is minor based on minimal evidence. As a matter of fact, the first charge -- stemming from an anonymous, citizen informant's dispatch call -- was dropped having no merit before arraignment. Defendant is not even resident of area but was traveling through at time of incident at question. He intends to move on while his liberty is restrained to the area, by inordinate delay, as an indigent without income. Furthermore, Defendant is forced by necessity to self-represent (as described in previous Faretta Motion) in such circumstances – his opportunities for employment are disrupted, his associations (such as Church affiliations) are curtailed. The drawnout procedural harassments, as above, are prejudicing the defendant with excessive anxiety inducement. Also, it would belabor the Court with unnecessary expense of time and resources – and over minor charge with little merit. Therefore, zealous prosecution would serve to only confirm Defendant's assertions concerning a pretextual arrest with motives toward malicious, retaliatory, prosecutorial misconduct.

According to Serna, "Right to speedy trial protects criminal defendant against oppressive pretrial incarceration, anxiety, concern and disruption of his everyday life" (Serna v Superior Court (1985) 40 C3d 239). Therefore, it would be in the interest of justice for the Court to dismiss the charge.

Date: _____

Respectfully submitted,

James E. Horton, In Persona Propria

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